REMARKS/ARGUMENTS

Reconsideration of this application is requested. Claims 1-7 are pending in the application. This addresses the issues raised in the Official Action of August 31, 2010, a final rejection, and accompanies a Request for Continued Examination.

Claim 1 has been amended in order to specify that the amount of polyethylene resin is a maximum of 24% by volume – outside Mitrovich's range. Basis for this amendment appears throughout the description of the invention and in particular is the amount used in example 2. In other examples include values of 20%. Mitrovich is quite clear on the amount of polymeric carrier – it must be 25% by volume; *see* column 2, lines 40-41. The "first portion of the lubricant stick (*see* line 51) is composed of (preferably from 35 to 39%) of polymeric carrier with a relatively high melt index, such as linear low density polyethylene, a low density polyethylene …"; *see* column 2, lines 51-57. Similar disclosures are in the paragraph bridging columns 2 and 3. By this amendment, there is no overlap at the disclosures on the Mitrovich reference.

In changing the amount of polyethylene it is necessary to increase the lower limit of melamine cyanurate to 20%. Basis for this appears in the specification on page 6, third line from the bottom.

Applicants disagree with the manner in which the Mitrovich has been interpreted and applied in the current Official Action. The Examiner refers to two portions and bases certain calculations on these portions. The Official Action appears to base conclusions on these two portions as if they are combined. In fact, they are not, for the reference itself says "solid lubricant of the present invention uses two distinct thermo-polymer resins with different melt flow temperatures and melt point indexes to form a two portion lubricant." See column 3, lines 10-14. The reference goes on to disclose quite clearly that these two portions are applied separately and as required. The reference itself makes this quite clear. Note, for instance, in the discussion of the drawings the "two portions 12 and 14 can be joined together in any common means, including … welding … the two portions could be co-extruded." *See* column 7, lines 26-32. Accordingly, the interpretation of the reference is based upon a miscalculation of the amounts present, in particular in combining the two "portions" which the reference itself clearly teaches.

The Official Action asserts at least two positions that are not based upon fact, simply total conjecture.

An obviousness rejection must rest on a sound factual basis with these facts being deduced without hindsight reconstruction of the invention from the prior art. The Examiner may not, because of doubt that the invention is patentable, resort to speculation, unfounded assumption, or hindsight reconstruction to supply deficiencies in the factual basis for the rejection. *See In re Warner*, 379 F.2d 1011, 1017 (CCPA 1967), "rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *KSR*, 127 S. Ct. at 1741(citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006).

On page 3, second full paragraph, where it is asserted that certain paraffin waxes of Urata "are suitable synthetic wax for use in a solid lubricant of Mitrovich". There is no factual basis on which to base this statement. Instead, it would appear to be based on conjecture.

Similarly, page 5, item 12 asserts that the solid lubricants in Mitrovich, when used as lubricants, "would have similar coefficient of friction to the claimed invention". Again, this appears to be conjecture and not fact.

For the above reasons it is respectfully submitted that the rejection based upon the newly-cited reference to Mitrovich lacks appropriate factual basis on the record and/or is based upon an incorrect interpretation of the content of the document apply.

Reconsideration and favorable action are solicited.

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 14-1140.

Respectfully submitted,

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